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Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

ALBERT H. SMALL CHARITABLE REMAINDER
UNITRUST; and ALBERT H. SMALL, individually
and in his capacity as Trustee for the Albert H. Small
Charitable Remainder Unitrust,

Defendants.

Adv. Pro. No. 10-04703 (SMB)

AMENDED NOTICE OF MEDIATOR SELECTION

On November 10, 2010, this Court entered the Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010 Protective Order (the “Order”)¹ [Adv. Pro. No. 08-01789 (SMB), Dkt. No. 3141]. Pursuant to the Notice of Applicability filed by Plaintiff Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), in this Adversary Proceeding on December 1, 2010 [Dkt. No. 2], the Order and the avoidance procedures contained therein (the “Avoidance Procedures”) are applicable to the instant matter.

Pursuant to the Avoidance Procedures, on April 28, 2014, the Trustee filed with this Court the Notice of Mediation Referral [Dkt. No. 17], wherein the Trustee and Defendants Albert H. Small Charitable Remainder Unitrust and Albert H. Small, individually and in his capacity as Trustee for the Albert H. Small Charitable Remainder Unitrust, (the “Parties”) jointly agreed to enter mediation prior to completion of discovery without further court order.

Pursuant to the Avoidance Procedures and the Mediation Order, made applicable to the Parties upon the filing of the Notice of Mediation Referral, on April 28, 2014, the Parties filed with this Court the Notice of Mediator Selection [Dkt. No. 18], wherein the Parties mutually selected from the Mediation Register Judge Melanie Cyganowski from the law firm of Otterbourg, Steindler, Houston & Rosen, P.C. to act as Mediator in this matter.

Due to intervening events, the Parties have chosen to replace Judge Melanie Cyganowski with Stuart Hirshfield as mediator in this matter. Through this Amended Notice of Mediator Selection, and pursuant to the Avoidance Procedures and the Mediation Order, the Parties hereby

mutually select from the Mediation Register Stuart Hirshfield to act as Mediator in this matter. The Parties further agree to contact Stuart Hirshfield as soon as practicable after this Notice of Mediator Selection is filed with the Court.

The Parties further agree that no person shall act as Mediator if that person, or that person's law firm, currently represents a party with respect to the BLMIS proceeding, unless the Parties provide prior written consent that the person may act as Mediator.

Pursuant to the Avoidance Procedures, the Parties agree that this mediation will conclude within 120 days from the date that the initial Notice of Mediator Selection was filed, August 26, 2014, unless that deadline is extended by mutual consent of the Parties and the Mediator.

¹ All terms not defined herein shall be given the meaning ascribed to them in the Order.

Dated: July 30, 2014

Respectfully submitted,

Of Counsel:

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/s/ Edward A. Smith

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